

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

E-filing

SHERRY INGLES, Individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

v.

MENU FOODS, INC., MENU FOODS INCOME FUND,
MENU FOODS MIDWEST CORPORATION and
MENU FOODS SOUTH DAKOTA INC.,

Defendants.

SUMMONS IN A CIVIL CASE

CASE NUMBER:

MMC

C 07 1809

TO: (Name and address of defendant)

See attached list.

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Shawn A. Williams
LERACH COUGHLIN STOIA
GELLER RUDMAN & ROBBINS LLP
100 Pine Street, Suite 2600
San Francisco, CA 94111

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Richard W. Wieking

CLERK

MAR 30 2007

DATE _____

(BY) DEPUTY CLERK

ATTACHMENT TO SUMMONS

MENU FOODS, INC.
9130 Griffith Morgan Lane
Pennsauken, NJ 08110

MENU FOODS INCOME FUND
8 Falconer Drive
Streetsville, ON
CANADA L5N 1B1

MENU FOODS MIDWEST CORPORATION
c/o Registered Agent – The Corporation Trust Co.
1209 Orange Street
Wilmington, DE 19801-1120

MENU FOODS SOUTH DAKOTA INC.
c/o Registered Agent – The Corporation Trust Co.
1209 Orange Street
Wilmington, DE 19801-1120

T:\Users\SF\DeborahD\summons.att\menufoods.doc

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)
LexisNexis File & Serve SOP
LERACH COUGHLIN STOIA GELLER RUDMAN &
ROBBINS, LLP 655 West Broadway
San Diego, CA 92101

FOR COURT USE ONLY

TELEPHONE NO.: **6192311058**FAX NO. (Optional): **6192317423**

EMAIL ADDRESS (Optional):

ATTORNEY FOR (Name): **SHERRY INGLES, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED****UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA**

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

PLAINTIFF/PETITIONER: **SHERRY INGLES, INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED**

CASE NUMBER:

C 07 1809 MMCDEFENDANT/RESPONDENT: **MENU FOODS, INC., ET AL.,**

Ref. No. or File No.:

14344012**PROOF OF SERVICE OF SUMMONS**

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the (*specify documents*):

Summons and Class Action Complaint; Order Setting Initial Case Management Conference and Adr Deadlines; Case Management Conference Order; Standing Order for Civil Cases Assigned to The Honorable Maxine M. Chesney; Standing Order for All Judges of The Northern District of California; Ecf Information; Notice of Availability of Magistrate Judge to Exercise Jurisdiction; Notice of Lawsuit and Request for Waiver of Service of Summons; Waiver of Service of Summons; U.S. District Court Guidelines

3. a. Party served (*specify name of party as shown on documents served*):**MENU FOODS, INC.**

b. [Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b
 whom substituted service was made) (*specify name and relationship to the party named in item 3a*):

SEAN CONKLIN, V.P. OOPERATIONS, A white male approx. 40-45 years of age 6'2"-6'4" in height weighing 220-240 lbs with brown hair

4. Address where the party was served:

MENU FOODS, INNC., 9130 GRIFFITH MORGAN Lane, PENNSAUKEN, NJ 081105. I served the party (*check proper box*)

a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **4/4/2007** (2) at (time): **3:05 PM**

b. by substituted service. On (date): (2) at (time): I left the documents listed in item 2 with or in the presence of (*name and title or relationship to person indicated in item 3*):

- (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
- (2) (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
- (3) (physical address unknown) a person of at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
- (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or a declaration of mailing is attached.
- (5) I attach a **declaration of diligence** stating actions taken first to attempt personal service.



PLAINTIFF/PETITIONER: **SHERRY INGLES, INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED** CASE NUMBER: **C 07 1809 MMC**

DEFENDANT/RESPONDENT: **MENU FOODS, INC., ET AL.**

- c. by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
 (1) on (date): _____ (2) from (city): _____
 (3) with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt.) (Code Civ. Proc., § 415.30)
 (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40)

- d. by other means (*specify means of service and authorizing code section*):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
 b. as the person sued under the fictitious name of (*specify*):
 c. as occupant
 d. On behalf of (*specify*):

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other |

7. Person who served papers

- a. Name: **GERARD C. MENICHINI**
 b. Address: **498 JUSTICE DR., MARLTON, NJ 08053**
 c. Telephone number: **609-504-0806**
 d. The fee for service was: **\$**
 e. I am:
 (1) not a registered California process server.
 (2) exempt from registration under Business and Professions Code section 22350(b).
 (3) registered California process server:
 (i) owner employee independant contractor
 (ii) Registration No.: _____
 (iii) County: _____

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

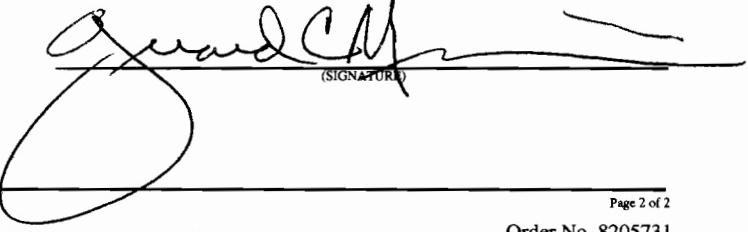
9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: **4/4/2007**

GERARD C. MENICHINI

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)




1 **UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA**

2 SHERRY INGLES, INDIVIDUALLY AND ON
3 BEHALF OF ALL OTHERS SIMILARLY
4 SITUATED

5 Plaintiff / Petitioner

6 vs.
7 MENU FOODS, INC., ET AL.,

8 Defendant / Respondent

9 Cause #: C 07 1809 MMC

10 Affidavit of Service of:

11 SUMMONS AND CLASS ACTION COMPLAINT; ORDER
12 SETTING INITIAL CASE MANAGEMENT CONFERENCE
13 AND ADR DEADLINES; CASE MANAGEMENT
14 CONFERENCE ORDER; STANDING ORDER FOR CIVIL
15 CASES ASSIGNED TO THE HONORABLE MAXINE M.
16 CHESNEY; STANDING ORDER FOR ALL JUDGES OF THE
17 NORTHERN DISTRICT OF CALIFORNIA; ECF
18 INFORMATION; NOTICE OF AVAILABILITY OF
19 MAGISTRATE JUDGE TO EXERCISE JURISDICTION;
20 NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF
21 SERVICE OF SUMMONS; WAIVER OF SERVICE OF
22 SUMMONS; U.S. DISTRICT COURT GUIDELINES

23 Hearing Date:

24 Witness Fee Tendered:

25 The undersigned, being first duly sworn, on oath deposes and says: That s/he is now and at all times herein
26 mentioned, a citizen of the United States and over the age of eighteen, not an officer of a plaintiff
27 corporation, not a party to nor interested in the above entitled action, has the authority to serve pleadings in
28 the State named below, and is competent to be a witness thereto.

29 On the date and time of APRIL 3, 2007 AT 4:00 PM at the address of 8 FALCONER DRIVE,
30 city of STREETSVILLE, county of _____,

31 Province of ONTARIO, this affiant served the above described documents upon:

32 **MENU FOODS INCOME FUND**

33 **Personal Service**

34 by then and there personally delivering _____ true and correct copy(ies) thereof.

35 **Corporate Service**

36 by then and there personally delivering 1 true and correct copy(ies) thereof, by then presenting to
37 and leaving the same with MARK WIENS C.F.O.
Person Receiving Documents and Their Title

38 **Substituted/Residential Service**

39 by then and there personally delivering _____ true and correct copy(ies) thereof, by then presenting to
40 and leaving the same with _____
41 a person of suitable age and discretion who stated the above address to be the residence and usual place
42 of abode of themselves and the subject(s) and/or subjects legal representative listed above.

43 No information was provided that indicates that the subjects served are members of the U.S. military.

44 ABC Legal Services, Inc.
45 206 521-9000
46 Tracking #: 8205742



47 **ORIGINAL
PROOF OF SERVICE**

48 PATRICIA C. PUERTO

STEVE KOVACSTyped or Printed Name of Process ServerServer Signature

Subscribed and Sworn to before me this

10 APR 2008

a Notary Public in the Province of Ontario
Residing at Toronto

Greg Borg, a Commissioner, etc., City of
Toronto, for Borg Process Servers Inc.,
and for Process Serving and Tenant
Protection Act, 1997 matters only.
Expires March 14, 2009.

ABC Legal Services, Inc.
206 521-9000
Tracking #: 8205742



ORIGINAL
PROOF OF SERVICE

PATRICIA C. PUERTO

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LexisNexis File & Serve SOP LERACH COUGHLIN STOIA GELLER RUDMAN & ROBBINS, LLP 655 West Broadway San Diego, CA 92101		FOR COURT USE ONLY
TELEPHONE NO.: 6192311058 FAX NO. (Optional): 6192317423 EMAIL ADDRESS (Optional): ATTORNEY FOR (Name): SHERRY INGLES, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED		
UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA		
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: SHERRY INGLES, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED		CASE NUMBER: C 07 1809 MMC
DEFENDANT/RESPONDENT: MENU FOODS, INC., ET AL.,		Ref. No. or File No.: 14344012
PROOF OF SERVICE OF SUMMONS		

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the (specify documents):
Summons and Class Action Complaint; Order Setting Initial Case Management Conference and Adr Deadlines; Case Management Conference Order; Standing Order for Civil Cases Assigned to The Honorable Maxine M. Chesney; Standing Order for All Judges of The Northern District of California; Ecf Information; Notice of Availability of Magistrate Judge to Exercise Jurisdiction; Notice of Lawsuit and Request for Waiver of Service of Summons; Waiver of Service of Summons; U.s. District Court Guidelines
3. a. Party served (specify name of party as shown on documents served):
MENU FOODS MIDWEST CORPORATION

b. [] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b whom substituted service was made) (specify name and relationship to the party named in item 3a):
Scott LaScala, REGISTERED AGENT, White, Male, Age 40's, 5'10", 170 lbs with brown hair
4. Address where the party was served:
1209 ORANGE Street, WILMINGTON, DE 19801-1120
5. I served the party (check proper box)
 - a. [] by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **4/4/2007** (2) at (time): **12:50 PM**
 - b. [] by substituted service. On (date): (2) at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) [] (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) [] (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) [] (physical address unknown) a person of at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) [] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): _____ or [] a declaration of mailing is attached.
 - (5) [] I attach a **declaration of diligence** stating actions taken first to attempt personal service.



PLAINTIFF/PETITIONER: SHERRY INGLES, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED	CASE NUMBER: C 07 1809 MMC
DEFENDANT/RESPONDENT: MENU FOODS, INC., ET AL.	

- c. [] by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
 (1) on (date): (2) from (city):
 (3) [] with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt.) (Code Civ. Proc., § 415.30)
 (4) [] to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40)
- d. [] by other means (specify means of service and authorizing code section):

[] Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. [] as an individual defendant.
- b. [] as the person sued under the fictitious name of (specify):
- c. [] as occupant
- d. [X] On behalf of (specify):
under the following Code of Civil Procedure section:

- | | |
|--|--|
| [] 416.10 (corporation) | [] 415.95 (business organization, form unknown) |
| [] 416.20 (defunct corporation) | [] 416.60 (minor) |
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| [] 416.40 (association or partnership) | [] 416.90 (authorized person) |
| [] 416.50 (public entity) | [] 415.46 (occupant) |
| | [] other |

7. Person who served papers

- a. Name: **Daniel Newcomb**
- b. Address: **2000 Pennsylvania Ave SUITE #207, Wilmington, DE 19806**
- c. Telephone number: **302-429-0652**
- d. The fee for service was: \$
- e. I am:
 - (1) [X] not a registered California process server.
 - (2) [] exempt from registration under Business and Professions Code section 22350(b).
 - (3) [] registered California process server:
 - (i) [] owner [] employee [] independant contractor
 - (ii) [] Registration No.:
 - (iii) [] County:

8. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
or

9. [] I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: **4/4/2007**

Daniel Newcomb

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LexisNexis File & Serve SOP LERACH COUGHLIN STOIA GELLER RUDMAN & ROBBINS, LLP 655 West Broadway San Diego, CA 92101		FOR COURT USE ONLY
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PLAINTIFF/PETITIONER:	SHERRY INGLES, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED	CASE NUMBER:
DEFENDANT/RESPONDENT:	MENU FOODS, INC., ET AL.	C 07 1809 MMC

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 (1) on (date): (2) from (city):
 (3) [] with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30)
 (4) [] to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40)
- d. [] by other means (specify means of service and authorizing code section):

[] Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. [] as an individual defendant.
- b. [] as the person sued under the fictitious name of (specify):
- c. [] as occupant
- d. [X] On behalf of (specify):
 under the following Code of Civil Procedure section:

[] 416.10 (corporation)	[] 415.95 (business organization, form unknown)
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7. Person who served papers

- a. Name: Daniel Newcomb
- b. Address: 2000 Pennsylvania Ave SUITE #207, Wilmington, DE 19806
- c. Telephone number: 302-429-0652
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- e. I am:
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 - (2) [] exempt from registration under Business and Professions Code section 22350(b).
 - (3) [] registered California process server:
 - (i) [] owner [] employee [] independant contractor
 - (ii) [] Registration No.:
 - (iii) [] County:

8. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 or

9. [] I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 4/4/2007

Daniel Newcomb

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

